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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,699	01/28/2004	Joseph Henriques	2-235.006-1	2068

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WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

EXAMINER

AMIRI, NAHID

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/766,699

Applicant(s)

HENRIQUES, JOSEPH

Examiner

Nahid Amiri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-15 is/are rejected.
- 7) ☒ Claim(s) 9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>28 January 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **“Protuberance”** of the bracing piece that alignable with **“a corresponding indentation”** of the **lower adapter of claim 9**, lines 3-4, and the **“Protuberance”** of the bracing piece that alignable with **“a corresponding indentation”** of the **upper adapter of claim 10**, lines 3-4, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because “is disclosed” is a phrase, which can be implied and should be avoided. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: Page 5, line 24, the reference "139" should change to --30--, and page 7, line 18, the reference "435" should change to --825--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what applicant meant by having the upper and lower adapter portions "are substantially identical", since the convex "protuberances" of lower adapter are not "identical" to concave "indentations" of the upper adapter. Therefore, the examiner will treat the claim as best understood.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7 and 11-15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,267,529 B1 Mudryk et al.

In regard to claims 1, 12 and 14: Mudryk et al., discloses a flexible traffic post (1) (Fig. 3) including an upper adapter (8) for attachment to a first part of the post (2); a lower adapter portion (8) for attachment to a second part of the post (4); a cylindrically helical spring (7) for connecting the upper adapter (8) to lower adapter (8); wherein at least one of the upper and lower

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adapter portion (8) is adapted to receive the helical spring (7) as a screw by having threaded lug (11) which secures threaded to helical spring (7); wherein applying a force to the first part of the post 2 inherently creates a torque between the upper and lower adapter portions (8) greater than a predetermined amount; and wherein the spring (7) inherently creates a tension that depends upon how far it is screwed into the at least one of the upper and lower adapter portions (8) by threaded lug (11).

In regard to claim 2: Mudryk et al., discloses (Fig. 3) the upper and lower adapter portions (8) having a plurality of holes (9) for removably screwing the adapter to the posts (2 and 4).

In regard to claim 3: Mudryk et al., discloses (Fig. 8) having a shield (13) for encircling and protecting at least the helical spring (7).

In regard to claim 4: Mudryk et al., discloses (Fig. 8) the lower and upper adapter portions (8) are shaped to receive the respective parts of the posts (2 and 4).

In regard to claims 7 and 13: Mudryk et al., discloses (Fig. 8) at least one of the adapter portions (8) includes a threaded lug (11) which inherently removable provided for securing the spring (7) in a screwed position, wherein the spring (7) inherently capable of securing in a plurality of screwed positions with a threaded lug (11) which causes a cylindrically helical spring (7) to have a corresponding plurality of different tensions.

In regard to claim 11: Mudryk et al., discloses (Fig. 8) the upper adapter portion and the lower adapter portion (8) have respective facing elements (10) located outside the shield (13) for securing the helical spring to upper and lower adapters (8).

In regard to claim 15: Mudryk et al., discloses (Fig. 8) the spring (7) having a bend for contacting the removable threaded lug (11).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mudryk et al.

In regard to claim 6: Mudryk et al., discloses applicant claimed invention except the one or more of the adapter portion is secured to the helical spring using glue or caulk. It would have been obvious to one of ordinary skill in the art at the time of invention was made to secure the adapter portions to the helical spring by using glue or caulk which known in the art for tightening and connecting two components together in more secure way.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mudryk et al., as applied to claims 1-4, 7 and 11-15 above, and further in view of US Patent No. 2,567,931 Foster.

In regard to claim 8: Mudryk et al., discloses the claimed invention except the removable device comprises a screw. Foster teaches (Figs. 3, 4) (column 3, lines 8-11) the spring (29) is connected to their respective links (30) by means of pins (33) through respective eyelets. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the spring of Mudryk et al., with pins as taught by Foster in order to connect the spring to lower and upper adaptors.

Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter:

In regard to claim 5, appears drawn to allowable subject matter, but final determination will be made after all objections and 112 matters have been corrected. The prior art does not show or suggest a the upper and lower adapter portions have facing surface which include a plurality of protuberances and corresponding indentation for flexibly aligning the adapter portions

Claims 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In regard to claims 9 and 10, adapters comprising bracing member having ends, wherein the bracing piece including protuberances that are alignable with corresponding indentations in the lower and upper adapter portions.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 5,678,945	Fimeri
US Patent No. 5,524,858	Friend
US Patent No. 2,149,050	Hajicek
US Patent No. 5,160,111	Hugron
US Patent No. 4,995,576	Kieswetter
US Patent No. 5,297,570	Conner
US Patent No. 6,810,890 B2	Lin et al.
US Patent No. 5,803,353	Fisher
US Patent No. 6,328,047 B1	Lee
US Patent No. 3,930,380	Fogt

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (571) 272-8113. The examiner can normally be reached on 8:30-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nahid Amiri
Examiner
Art Unit 3679
August 08, 2005



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600